

☒Statement

Ira H. Parker

Vice President & General Counsel

GTE Internetworking

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Mr. Chairman and members of the Committee, my name is Ira H. Parker. I am Vice President and General Counsel of GTE Internetworking. I welcome this opportunity to offer my views on electronic authentication. I commend you and your colleagues for exploring this important issue.

GTE Internetworking is the division of GTE Corporation responsible for our business and consumer Internet offerings. We were formed just about 2 years ago when GTE Corporation acquired BBN, one of the original developers of the Internet. GTE Internetworking is an integrated Internet company providing many products and services to businesses and consumers. We are one of the largest Internet Backbone Providers and we are building a nationwide high-speed fiber optic network to carry data traffic throughout the United States and abroad. We are also a leading consumer and small business Internet Service Provider, with more than 800,000 customers. Additionally, GTE offers managed access to the Internet, Web Hosting services, and a variety of value added Internet services for businesses and other organizations. Through our CyberTrust Solutions subsidiary we offer a suite of certificate management products and services that generate digital certificates to support secure communications, secure access control, secure messaging and secure electronic transactions for electronic commerce applications.

Electronic authentication is key to our product offerings, to our customers and to the development of electronic commerce.

Why is this important? Because business is being transformed by Internet. Electronic commerce has the potential to change the way every American does business. We already see signs of this change in almost every aspect of our lives. According to one recent study, the number of U.S. households with Internet access rose from 5.8 million in 1994 to 38.8 million in 1999. The figure is projected to rise to 60 million in 2003, and many of these people are conducting business over the Internet. The economic power of the Internet was recently demonstrated by the unexpected surge in Internet sales during Christmas 1998 and by the meteoric rise in technology shares which has helped fuel the recent record-breaking levels of the Dow. Some analysts predict that electronic commerce will be a \$300 billion a year business by the year 2000. While no one knows for sure whether these predictions are reliable, it is increasingly evident that the global use of electronic commerce will change business as we know it. There is also much evidence to suggest that the productivity gains associated with Internet technologies was a major factor in the ability of our economy to withstand the perils of the economic turmoil effecting much of the rest of the world.

In order to transact business over large, open networks like the Internet, parties must find a way to authenticate -- that is, to identify -- each other and to ensure that the messages sent were not tampered with during their transmission. The technique known as electronic authentication meets these goals.

Electronic authentication is an electronic technique that allows the user to (i) authenticate the identity of, or information associated with, a sender of a document, (ii) determine that a document was not modified during transmission and (iii) verify that the document received was the one sent by the party claiming to be the sender.

These are simple and necessary attributes. They are a useful tool that allows

certainty and knowledge about customers and transactions.

Why is legislation necessary or desirable? Internet service providers like GTE Internetworking put priority on being able to offer their services in a simple, uniform way throughout the United States. This goal is threatened by a burst of state legislation that has produced a patchwork quilt of conflicting and inconsistent state laws. While the states should be commended for their willingness to come to grips early on with electronic commerce, the resulting disparate state statutory regimes concern GTE Internetworking and other Internet service providers who seek to offer nationwide electronic commerce services over the Internet. I think all of us can agree that the Internet, and commerce conducted over the Internet, transcends state boundaries. As a result, anything short of uniformity will hinder our ability to provide these products and services and of consumers to enjoy the full fruits of Internet commerce.

What are the states doing? As of January 31, 1999, some 43 states had enacted laws that deal with electronic authentication. These states have varying approaches regarding such matters as registration and regulation of certificate authorities, limitations on liability, definitions of key terms like "electronic authentication" and "digital signature" and the minimal content and technological scope of digital certificates that provide electronic authentication.

The problem is that if there are a multitude of state regimes governing electronic authentication, the implementation of secure electronic commerce over the Internet will become costly and inefficient. Up to 50 differing legal regimes will diminish the likelihood of seamless and uniform electronic commerce, which by its very nature is interstate in nature. Up to 50 different regimes will reduce the incentive for new market entrants to offer electronic commerce products and services. Up to 50 different regimes will confuse consumers doing business over the Internet and will result in a patchwork quilt of differing legal protections, commercial standards and levels of security.

There is also a foreign competitiveness issue. This is very important. Foreign countries, particularly in the European Union, are allowing electronic authentication without a variety of conflicting intra-country rules and regulations. Thus, they facilitate commerce and the competitiveness of their companies. For the U.S. electronic commerce industry to compete in the world market it needs uniformity and simplicity at home.

This is an important issue for Internet Service Providers (ISPs) like GTE Internetworking. While we support such state efforts as the drafting of the Uniform Electronic Transactions Act by the National Conference of Commissioners on Uniform State Laws, Internet electronic commerce is moving forward at too fast a pace to rely solely on them. We need uniform national legislation more rapidly than the current state efforts are likely to produce this result. We need national uniform legislation today.

We believe that the Millenium Digital Commerce Act (S. 761) is just such legislation. We support this bill because it does six things:

- First, it provides recognition and effect for electronic authentication used in any contract that relates to an interstate transaction.
- Second, it authorizes parties to an interstate transaction to establish by contract, electronically or otherwise, technologies or business models (including legal or other procedures) to create, use, receive, validate or invalidate electronic signatures and electronic records. It would do this notwithstanding any state law that specifies one or more acceptable or required technologies or business models. It thus largely preempts conflicting state laws.
- Third, and very importantly, S. 761 was drafted with a view to the state uniform law effort that is currently under way. Thus, if a state enacts or has in effect uniform electronic transactions legislation that is substantially similar to that reported to the state legislatures

by the National Conference of Commissioners on Uniform State Laws it would be deemed not to be preempted, provided such law is not inconsistent with the principles enunciated above, namely that it gives recognition and effect to electronic authentication and allows parties to establish by contract the technologies and business models that govern their interstate transactions. Thus, the states can legislate on electronic authentication consistent with the uniform state law effort.

- Fourth, the bill is a minimalist, market-oriented, technology-neutral approach. It does not purport to allocate obligations and liabilities between users and providers of electronic authentication. It leaves this up to the parties to establish by contract.
- Fifth, S. 761 establishes no new bureaucracies or regulatory schemes. Electronic commerce is an infant industry, and it should not be strangled by unnecessary licensing or regulatory schemes.
- Sixth, this bill does not affect existing consumer protections or the rules governing the validity of formation of agreements or system rules under the Uniform Commercial Code or uniform state laws dealing with electronic contracting.

These six points, as embodied in S. 761, are consistent with our view that the private marketplace should take the lead in promoting and directing new technologies. Government should take action to remove obstacles to the private market use, development and deployment of the technologies. These are exactly the goals of S. 761, and we therefore strongly endorse it and urge its enactment, as well as the enactment of similar legislation in the House.

Thank you.